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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation.

LOK SABHA

The following Bills were introduced in Lok Sabha on 25th November, 1988:—

BILL NO. 77 OF 1988

A Bill further to amend the Constitution of India

BE it enacted by Parliament in the Thirty-ninth Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1988.
2. In article 102 of the Constitution, after clause (2), the following clause shall be inserted, namely:—

“(3) A person, who resigns from the membership of either House of Parliament or is disqualified for being a member of such House under the Tenth Schedule, shall not be eligible to contest any election to either House of Parliament or the Legislature of a State for a period of five years from the date of resignation or of such disqualification.”.

3. In article 191 of the Constitution, after clause (2), the following clause shall be inserted, namely:—

“(3) A person, who resigns from the membership of the Legislative Assembly or Legislative Council of a State or is disqualified for being a member of such House under the Tenth Schedule, shall not be eligible to contest any election to the Legislature of a State or to either House of Parliament for a period of five years from the date of resignation or of such disqualification”.

Short title.

Amendment of article 102.

Amendment of article 191.

STATEMENT OF OBJECTS AND REASONS

At present, members voluntarily give up their membership of the Parliament or the State Legislature and the political parties which put them up as candidates and they later join other political parties. They again come back to Legislature through the bye-elections, contesting with the help of other political parties. The whole purpose of the anti-defection Act is defeated if members choose to resign from the House and again contest from different political parties. This will lead to conducting of bye-elections unnecessarily and causing unnecessary burden of expenditure on the public exchequer. Therefore, a restriction should be imposed on the members who resign from the legislature or give up the membership of the political parties on whose ticket they get elected to such legislature, that they should not be allowed to contest any election to Parliament or State Legislature for a period of five years.

Hence this Bill.

NEW DELHI;
July 2, 1988.

V. S. KRISHNA IYER

BILL No. 74 OF 1988

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Thirty-ninth Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1988.

Short
title.

2. In article 80 of the Constitution, for clause (3), the following clause shall be substituted, namely:—

Amend-
ment of
article
80.

“(3) The members to be nominated by the President under sub-clause (a) of clause (1) shall consist of persons having special knowledge or practical experience in respect of such matters as the following, namely:—

Public administration, literature, science, art, administration of justice and social service.”.

STATEMENT OF OBJECTS AND REASONS

The President can nominate 12 members to the Council of States and the persons so nominated by the President shall be having special knowledge or practical experience in respect of such matters, *viz.*, literature, science, art and social service.

Persons who have rendered useful or excellent service in the field of public administration and the administration of justice should also be considered for nomination to the Council of States. Therefore, it is proposed to amend article 80 of the Constitution to enable them to get nominated to the Council of States.

Hence this Bill.

NEW DELHI;
July 8, 1958.

V. S. KRISHNA IYER

BILL No. 89 OF 1988

A Bill further to amend the Cinematography Act, 1952

BE it enacted by Parliament in the Thirty-ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the Cinematograph (Amendment) Act, 1988.

Short
title and
com-
mence-
ment.

(2) It shall come into force at once.

37 of 1952

2. In section 5B of the Cinematograph Act, 1952, in sub-section (1), after the words "decency or morality, or", the words "depicts sex or violence or" shall be inserted.

Amend.
ment of
section
5B.

STATEMENT OF OBJECTS AND REASONS

The motion pictures are depicting a lot of sex and violence. Even though the people have been demanding a ban on such pictures, the Censor Board is not paying proper attention to this aspect. Sometimes, it is very much embarrassing for the elders to sit with the youngsters of the family for watching a movie. Therefore, the motion pictures which depict sex or violence should not be given the certificate of public exhibition.

Hence this Bill.

NEW DELHI;
July 15, 1988.

V. TULSIRAM

BILL No. 115 OF 1988

A Bill to provide for the establishment of the Crop Insurance Corporation for the purpose of undertaking the business of crop insurance so as to protect the interests of farmers from loss due to unavoidable causes.

BE it enacted by Parliament in the Thirty-ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the Crop Insurance Corporation Act, 1988.

Short
title and
commen-
cement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless there is anything repugnant in the subject or context,—

Definition.

(a) "Board" means the Board of Directors constituted under section 6;

(b) "Corporation" means the Crop Insurance Corporation set up under section 3;"

(c) "crop" means and includes paddy, wheat, gram, barley, millet, corn, potato, pulses, sugar-cane and such other agricultural commodities which may be notified, from time to time, by the Central Government in the Official Gazette, and also includes seed as defined in the Seeds Act, 1966;

54 of 1966.

(d) "crop insurance" means and includes insurance against loss of the insured crop due to unavoidable causes including drought, flood, hail, wind, frost, winterkill, lightning, fire, excessive rain, snow, wild life, insect infestation, plant disease and such other unavoidable causes as may be prescribed;

(e) "prescribed" means prescribed by rules made under this Act; and

(f) "scheme" means a scheme made under this Act for the purpose of providing compulsory crop insurance to the growers of crop.

Estab-
lish-
ment of
Crop
insu-
rance
Corpora-
tion of
India.

3. (1) With effect from such date as the Central Government may, by notification in the Official Gazette, specify in this behalf, the Central Government shall establish for the purposes of this Act a corporation known as the Crop Insurance Corporation of India.

(2) The Corporation shall be a body corporate with the name aforesaid, having perpetual succession and a common seal with power, subject to the provisions of this Act, to acquire, hold and dispose of property and to contract, and may, by that name, sue and be sued.

Capital
of Cor-
poration.

4. (1) The initial capital of the Corporation shall be such sum not exceeding two hundred crores of rupees as the Central Government may fix.

(2) The Central Government may from time to time increase the capital of the Corporation to such extent and in such manner as that Government may determine.

(3) Such capital may be provided by the Central Government from time to time after due appropriation made by Parliament by law for the purpose and subject to such terms and conditions as may be determined by the Government.

Manage-
ment of
Corpora-
tion.

5. (1) The general superintendence, direction and management of the affairs and business of the Corporation shall vest in a Board of Directors, to be called the Board, which may exercise all such powers and do all such acts and things as may be exercised or done by the Corporation under this Act

(2) The Board in discharging its functions, shall act on business principles having regard to the interests of the Corporation and shall be guided by such instructions on questions of policy as may be given in writing to it by the Central Government

6. (1) The Board of Directors of the Corporation shall consist of the following namely:—

Constitution and powers of the Board of Directors.

(a) a Chairman;

(b) four directors to represent respectively the Ministries of the Central Government dealing with—

(i) food;

(ii) agriculture;

(iii) finance; and

(iv) co-operation;

(c) the Managing Director of the Life Insurance Corporation of India established under section 3 of the Life Insurance Act, 1956, *ex-officio*;

31 of 1956.

(d) Controller of Insurance, Ministry of Finance;

(e) a managing director having, at least, five years experience of managing the affairs of one or more statutory corporations in the capacity of a managing director;

(f) three members of Parliament of whom two shall be members of the House of the People and one shall be a member of the Council of States duly elected by the members of the House of the People and the members of the Council of States, respectively;

(g) one person each nominated by the Government of each State.

(2) The Chairman and all the directors of the Corporation, other than the directors referred to in clauses (c), (f) and (g) of sub-section (1), shall be appointed by the Central Government.

(3) The Managing Director shall exercise such powers and perform such duties as the Board may entrust or delegate to him.

7. (1) The Central Government shall, as soon as after the commencement of this Act, formulate a scheme providing for compulsory insurance of crops.

Crop Insurance Scheme.

(2) The scheme formulated under sub-section (1) shall, *inter alia*, provide for the following, namely:—

(a) the terms and conditions of crop insurance;

(b) the terms and conditions of multiple crop insurance, *i.e.*, insurance of two or more agricultural commodities under one contract with the farmer;

(c) the extent to which the insurance loss may be covered;

(d) rate of premium to be paid by the farmers;

(e) procedure for payment of claims for losses in agricultural commodities and the manner of payment.

(3) The scheme may be modified by the Corporation subject to the condition that any such modification shall come into force after it has received the approval of the Central Government.

Duty of
Corporation.

8. It shall be the duty of the Corporation to administer the scheme.

Crop
Insurance
Fund.

9. (1) All contributions paid under this Act and all other moneys received on behalf of the Corporation shall be paid into a fund called the Crop Insurance Fund which shall be held and administered by the Corporation for the purposes of this Act.

(2) The Corporation may accept grants, donations and gifts from the Central or any State Governments, any local authority or any individual or a body whether incorporated or not, for all or any of the purpose of this Act.

(3) Subject to the other provisions contained in this Act and to any rules or regulations made in this behalf, all moneys accruing or payable to the said Fund shall be paid into the Reserve Bank of India or such other bank as may be approved by the Central Government to the credit of an account styled as the account of the Crop Insurance Fund.

(4) Such account shall be operated by such officers as may be authorised by the Corporation.

Purposes
for
which
Fund
may be
expended.

10. Subject to the provisions of this Act and of any rules made by the Central Government in that behalf, the Fund shall be expended only for the following purposes, namely:—

(i) payments against losses covered by crop insurance in accordance with the provisions of this Act or the scheme made thereunder and defraying the charges and costs in connection therewith;

(ii) payment of fees and allowances to the members of the Board and other Committees/Boards which may be constituted to carry out the purposes of this Act;

(iii) payment of salaries leave and joining time allowances, travelling and compensatory allowances, gratuities and compassionate allowances, pensions, contributions to provident or other benefit fund of officers and servants of the Corporation and meeting the expenditure in respect of offices and other services set up for the purpose of giving effect to the provisions of this Act;

(iv) defraying the cost (including all expenses) of auditing the accounts of the Corporation and of the valuation of its assets and liabilities; and

(v) such other purposes as may be prescribed.

Maintenance of
accounts
of Corporation.

11. The Corporation shall maintain proper accounts of its income and expenditure in such form and in such manner as may be prescribed by the Central Government.

12. (1) The Corporation shall, as soon as may be, after the end of each financial year, prepare and submit to the Central Government in such form, as may be prescribed, a report giving an account of its activities during the previous financial year, and an account of the activities, if any, which are likely to be undertaken by the Corporation in the current and the immediately following financial year.

Annual Report to be laid before Parliament.

(2) The Central Government shall cause the Report to be laid before both the Houses of Parliament, as soon as may be, after each such Report is received by the Central Government.

13. The Central Government may give directions to a State Government as to the carrying into execution of any scheme of crop insurance in that State.

Power of Central Government to give directions.

14. (1) The Central Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

Power to make rules.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for the following matters, namely:—

(a) the term of office of, and the manner of filling casual vacancies among, and the other terms and conditions of appointment of, the directors of the Corporation;

(b) the additional functions which the Corporation may perform;

(c) the remuneration or fees payable to the members of the Board and the term of office of, and the manner of filling casual vacancies among, such members;

(d) the manner in which the Corporation may invest its funds,

(e) the form of the annual statement of accounts and the balance sheet to be prepared by the Corporation;

(f) any other matter which has to be or may be prescribed.

(3) Every rule made by the Central Government under this section, every scheme made under section 7 and any modification thereto shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or the scheme or both Houses agree that the rule or the scheme should not be made, the rule or the scheme shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or the scheme.

Power
of Cor-
poration
to make
regula-
tions.

15. (1) The Corporation may, subject to the condition of previous publication and with the previous approval of the Central Government, by notification in the Official Gazette, make regulations not inconsistent with this Act and the rules made thereunder to provide for all matters for which provision is necessary or expedient for the purpose of giving effect to the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

(a) the powers and functions of the Corporation which may be delegated to the zonal managers which may be appointed under the scheme;

(b) the method of recruitment of employees and agents of the Corporation and the terms and conditions of service of such employees or agents;

(c) the manner in which the Fund of the Corporation shall be maintained;

(d) the conduct of business at the meetings of the Corporation;

(e) the form and manner in which policies may be issued and contracts binding the Corporation may be executed;

(f) the manner in which and the interval within which the accounts of the various zonal offices, divisional offices and branch offices may be inspected and their accounts audited;

(g) the conditions subject to which any payment may be made by the Corporation; and

(h) the matter necessary for efficient conduct of the affairs of the Corporation.

STATEMENT OF OBJECTS AND REASONS

Frequent floods, drought and other natural calamities have made the life of our farmers uncertain. Their capital investment in the shape of high starch seed (rice, maize, etc.), fertilizers, insecticides, tractors, pumping sets, etc. is always at stake. Crops worth crores of rupees are damaged and the farmers have to suffer a lot. This gives a set-back to their will to grow more.

Every year crores of rupees are spent both by the Central and State Governments in compensating the farmers affected by floods, drought and other natural calamities which ultimately increase the burden on the tax-payer without creating a sense of confidence among farmers. If this amount of public fund is utilised for purposes of insuring crops, it would help the farmers and generate a sense of confidence among them and, at the same time, the burden on the exchequer would not be more than what is being spent by way of relief given to the victims of natural calamities.

The compulsory crop insurance scheme would give the farmers an incentive to devote their whole hearted attention towards improving the agricultural produce both in quantity and quality. This would certainly result in economic progress of the country.

Hence this Bill.

NEW DELHI;
October 7, 1988.

MADHU DANDAVATE

FINANCIAL MEMORANDUM

Clause 3 of the Bill seeks to establish the Crop Insurance Corporation of India. Taking into consideration the enormity of the insurance scheme which the present Bill seeks to achieve, it has been provided in clause 4 that the initial capital of the Crop Insurance Corporation shall be a sum not exceeding two hundred crores of rupees which has to be provided by the Central Government from time to time from the Consolidated Fund of India after due appropriation made by Parliament. Other expenditure which might have to be incurred in setting up of the Crop Insurance Corporation is not ascertainable at this stage.

The recurring expenditure of the Corporation will be met from the Fund of the Corporation.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 7 empowers the Central Government to formulate a scheme providing for compulsory insurance of crops.

Clause 14 empowers the Central Government to make rules to carry out the purposes of the Act. Clause 15 provides for making of regulations by the Corporation. These powers, delegated to the Central Government and the Corporation, relate to matters of detail and are of normal character.

BILL NO. 116 OF 1988

A Bill to provide for measures to assist rapid expansion of production of oil-seeds and to facilitate a more effective extraction of edible oils and other oils from different seeds both for direct human consumption as well as for the manufacture of vanaspati, soaps and other products.

BE it enacted by Parliament in the Thirty-ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the Oil-seeds and Edible Oils Production Act, 1988.

Short title,
extent
and com-
mence-
ment.

(2) It shall extend to the whole of India.

(3) It shall come into force at once.

2. (1) It shall be unlawful, after the coming into force of this Act, to use cotton seed for directly feeding the cattle or for putting it to use before extraction.

Restriction
on use of
cotton
seed and
penalty
for
violation.

(2) Violation of the provisions of sub-section (1) shall be punishable with imprisonment for one month or with fine extending to rupees two hundred or with both.

Factories to keep record of cotton ginned.

3. All cotton ginning factories shall keep a record of cotton ginned by them and they shall make all the cotton seed available for solvent extraction.

Subsidy to ginning factories.

4. The Central Ministry of Agriculture shall pay a subsidy, as may be prescribed, to all ginning factories who deliver to the extraction plants hundred per cent. of the cotton seed collected by them after completing the ginning process.

Ban on export of certain types of cotton seed cake.

5. (1) Export of undecorticated and undelinted cotton seed cake shall be totally banned after three years from the date of the coming into force of this Act.

(2) During the intervening period of three years referred to in sub-section (1), the Government shall pay cash incentives, as may be prescribed, with a view to encouraging the change over from undecorticated and undelinted cotton seed cake to decorticated and delinted cotton seed cake.

Rice mills to change hullers into sheller and loan therefor.

6. (1) All the rice mills which make use of hullers for polishing rice at present shall convert their hullers into shellers within a period of three years from the date of the coming into force of this Act.

(2) All rice mills shall be entitled to receive loans from the nationalised banks for the purpose of converting their hullers into shellers.

Abolition of levy on shellers.

7. The existing discriminatory foodgrains levy on modern rice mills using shellers shall be abolished forthwith.

Penal levy on hullers.

8. After the expiry of the period of three years referred to in sub-section (1) of section 6, if any rice mill continues to use hullers for dehusking rice, a heavy levy shall be imposed on it for its continuing to use the old wasteful process.

Licensing of adequate capacity for production of shellers.

9. It shall be the duty of the Central Government to license adequate capacity and ensure adequate production of machinery for effecting change-over from huller to sheller as also for expanding the capacity of extraction industry.

All rice bran to be supplied for solvent extraction and penalty for violation.

10. (1) All the rice bran, the availability of which shall increase with the progressive changeover from the huller process to sheller process of dehusking rice, shall be made available for solvent extraction.

(2) It shall be unlawful, after the coming into force of this Act, to use rice bran for any purpose other than extraction of oil.

(3) Violation of the provisions of sub-section (2) shall be punishable with imprisonment for one month or with fine which may extend to rupees two hundred or with both.

11. The Central Ministry of Agriculture shall pay a subsidy to all rice mills which deliver to the extraction plants hundred per cent. of the rice bran collected by them after completing the dehussing process.

Subsidy
to rice
mills,

12. The Government shall undertake cultivation of palm trees on an emergency basis in the coastal areas, especially in the Union Territory of Andaman and Nicobar Islands and in Kerala and for that purpose a special wing shall be set up in the Central Ministry of Agriculture for helping the Administration in the Union territory of Andaman and Nicobar Islands and the State Governments in Kerala and other States for expanding palm cultivation.

Palm
cultivation
by
Govern-
ment.

13. A special cell shall be established in the Central Ministry of Agriculture for the purpose of rapidly expanding cultivation of sunflower, especially in tracts which consist of sandy loams and black loams and which are unsuitable for groundnut cultivation and other crops.

Special
cell for
expanding
cultivation
of sun-
flower.

14. The Agricultural Universities shall undertake research in the matter of palm and sunflower cultivation and for that purpose the Central Ministry of Agriculture and State Agricultural Departments shall pay special grants to the Agricultural Universities.

Research
on palm
and sun-
flower
cultivation.

15. The Central Government shall, in order to expand cultivation of sunflower and palm, establish a special fund for this purpose out of which special development grants shall be given to the States which exceed the targets of cultivation and production to be fixed by the Centre both for palm and sunflower cultivation.

Establish-
ment of
special
fund for
sunflower
and palm
cultivation.

16. (1) The Central Ministry of Agriculture, in co-operation with the Agricultural Ministries in the States and the Agricultural Departments in the Union territories, shall formulate and implement a scheme for the collection of minor oilseeds like neem seeds, sal seeds, Kusumba and Karanja seeds and other seeds which are at present going waste and the scheme so formulated shall, inter alia, provide for drafting of beggars and unemployed people for this purpose.

Scheme
for col-
lection
of minor
oil-seeds
and
payment
of develop-
ment
grants.

(2) The Central Ministry of Agriculture shall fix targets for collection of these seeds and States which exceed targets shall be paid special development grants.

17. It shall be the duty of the Central Government and the State Governments to take suitable measures to conserve the nation's resources of edible oil and other oils and for that purpose factories producing vanaspati, soaps and other products shall be required increasingly to shift from the use of groundnut oil, rapeseed oil and mustard oil and other edible oils in general use to other oils and such change-over shall be completed within a period of five years from the date of the coming into force of this Act.

Conser-
vation
of and
change-
over
from
edible
oils to
other
oils.

Shift
from
use of
oil to
detergents
in soaps
manu-
facture.

Licensing
of new
units
for deter-
gents
manu-
facture.

Power
to make
rules.

18. It shall be the duty of the Central Government to help the soap manufacturers increasingly to shift from the use of oils to the use of chemical detergents in the manufacture of soaps.

19. The Central Government shall take steps rapidly to expand the manufacture of chemical detergents by liberally licensing new units so that detergents manufacturing capacity is not monopolised by foreign multi-national corporations and Indian big business houses as defined by the Monopolies and Restrictive Trade Practices Act, 1969.

54 of 1969.

20. (1) The Central Government shall make rules to give effect to the provisions of this Act.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

The Bill provides a short-term and long-term framework for solving the country's acute edible oil and oilseeds problems.

The importance of oil and oilseeds in our national economy cannot be exaggerated. Oilseeds are 13 per cent. of the index of wholesale prices, next only to foodgrains.

In the past few years, there has been a shortage of oilseeds, edible oils, vanaspati and now of soaps, and this shortage is annually growing more acute.

The Five Year Plans for the development of agriculture have not accorded the oilseeds problem the attention it deserved. On the production front, the record has been dismal. Unless drastic legal, administrative, research and investment efforts are undertaken, including a well balanced system of compulsion and inducement, the shortages are likely to get aggravated. Since the prices are increasing very rapidly, they will soon rise so high that edible oil will be beyond the reach of all except the rich.

The scheme of the Bill is to encourage economical use of oilseeds and edible oil, and to assist in the rapid expansion of oilseeds cultivation as well as extraction industry.

With this end in view, the Bill lays down that cotton seed and rice bran shall not be fed to cattle direct but must be delivered to extraction industry for taking out oil and other by-products. A change-over from uncorticated and undelinted cotton seed cake to corticated and delinted cake and also from huller to sheller process in dehusking of rice is statutorily provided for. All violations of the law shall be punished under the Bill.

The Bill makes it compulsory for the vanaspati industry to change from use of edible to non-edible oils and soap industry from oils to chemical detergents within a short period.

The Bill also provides the framework for rapid expansion of palm and sunflower cultivation.

NEW DELHI;
October 7, 1988.

MADHU DANDAVATE

FINANCIAL MEMORANDUM

The Bill provides for subsidies, cash incentives, grants and development grants in order to achieve the purposes thereof (clauses 4, 5, 11, 12, 13, 14, 15 and 16).

The estimated recurring expenditure from the Consolidated Fund of India will be around Rs. twenty five crores, and this will progressively fall after the transitional period.

The Bill, if enacted, is not likely to involve any non-recurring expenditure.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 20 of the Bill gives the Central Government power to make rules to carry out the purposes of the Bill.

The delegation of legislative power is of a normal character.

BILL NO. 114 OF 1988

A Bill further to amend the Constitution of India

BE it enacted by Parliament in the Thirty-ninth Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1988. Short title.
2. In the Eighth Schedule to the Constitution, entry 15 shall be re-numbered as entry 16, and before entry 16 as so re-numbered, the entry "15. Tulu." shall be inserted. Amend-
ment of
Eighth
Schedule.

STATEMENT OF OBJECTS AND REASONS

At present, Tulu language is spoken by a large section of people in Karnataka, particularly in Dakshina Kannada District and in the State of Goa. This language needs recognition due to it.

It is, therefore, desirable that 'Tulu' language is included in the Eighth Schedule to the Constitution of India.

Hence this Bill.

NEW DELHI;

V. S. KRISHNA IYER.

October 13, 1988.

BILL No. 122 OF 1988

A Bill to regulate the employment of construction workers and for matters connected therewith or incidental thereto.

WHEREAS there are two crores of construction workers in the country involved in various building and construction activities;

AND WHEREAS the construction workers have no security for employment, get low wages and have no educational, housing, medical facilities, etc.;

AND WHEREAS the construction industry is peculiar in nature inasmuch as there is everchanging employer-employee relationship;

It is hereby declared that it is expedient in the public interest to enact a law to regulate the employment of construction workers and to provide basic facilities to them.

BE it enacted by Parliament in the Thirty-ninth Year of the Republic of India as follows:—

PART I

PRELIMINARY

Short
title,
extent
and
com-
mence-
ment.

1. (1) This Act may be called Construction Workers (Regulation of Employment and Conditions of Service) Act, 1988.

(2) It extends to the whole of India.

(3) It shall come into force on such date or dates as the Central Government may, by notification in the Official Gazette, appoint or immediately after three months from the date of assent, whichever is earlier.

Defini-
tions,

2. In this Act, unless the context otherwise requires,—

(a) 'administrative body' means the Administrative Body appointed under section 17;

(b) 'Board' means the Construction Labour Board established under section 4 of this Act;

(c) 'construction work' means and includes—

(1) the construction, alteration, repair, maintenance or demolition of (a) Building; or (b) any railway line or sliding;

(2) construction activities in any dock, harbour, canal, dam, embankment; or including river-valley projects and river works, tanks and water course, inland navigation, road, tunnel, bridge, viaduct, water works, reservoir, pipelines, aquaduct, sewage works, airfields, sea defence works, gas works and any steel or reinforced concrete structure; or

(3) construction of any other structural engineering work of steel or reinforced concrete structure; or

(4) construction operations connected with the installation of machinery, wherever such installations takes place in a factory establishments or any engineering construction or in a mine; or

(5) construction of any other civil or structural work similar to any of the aforesaid construction activities; or

(6) any other operation such as stone breaking, earth brick-making, brick-kiln, lime kiln, etc.

(d) 'construction worker' means a person engaged in construction work but does not include any person who is employed in a managerial or administrative capacity;

(e) 'day' means a period of twenty-four hours beginning at midnight;

(f) 'employer' means any person who utilises construction labour for the purpose of construction work and includes any agency or contractor, by whatever name called, who has undertaken the construction work on behalf of the employer;

(g) 'employers register' means the register of employers employing or intending to employ construction labour under the provisions of this Act;

(h) 'establishment' means an establishment or industry engaged in construction work;

(i) 'labour officer' means an officer appointed by the Board under the Act for welfare of the workers;

(j) 'personnel officer' means the Personnel Officer appointed by the Board;

(k) 'President' means the President of the Construction Labour Board;

(l) 'register or record' means the register or record of construction workers maintained by the Board;

(m) 'registered construction worker' means a construction worker whose name is for the time being entered in the register or record;

(n) 'registered employer' means an employer whose name is for the time being entered in the employers' register;

(o) 'reserve pool' means a pool of registered construction workers who are available for work, and who are not for the time being in the employment of a registered employer;

(p) 'rules' means the rules made under this Act;

(q) 'Vice-President' means the Vice-President of the Construction Labour Board;

(r) 'week' means a period between midnight on Saturday and midnight on the succeeding Saturday.

3. The provisions of this Act shall have effect notwithstanding anything inconsistent therein contained in any other law for the time being in force or in any contract or instrument having effect by virtue of any law other than this Act or any other decree or order of any court, tribunal or authority.

Over-riding effect of the Act.

PART II

CONSTITUTION OF CONSTRUCTION LABOUR BOARD

1. (1) The Central Government shall by notification in the Official Gazette, constitute a Construction Labour Board consisting of such number of members as may be determined by the Central Government and representatives of employers and workers:

Constitution of Construction Labour Board.

Provided that number of such members appointed by the Central Government and representatives of employers shall not in any case exceed the number of representatives of workers.

(2) The Board shall have a President who shall be appointed from amongst its members, by rotation, annually.

Schemes
for
welfare
of con-
struction
workers.

5. The Board shall frame schemes which may provide—

- (a) for regulating employment in construction industry;
- (b) for defining the obligation of employers and the workers;
- (c) for regulating the recruitment of construction workers, including the registration of construction workers and employers and the maintenance of registers, the removal, either temporarily or permanently, of names from the registers and the imposition of fees for registration;
- (d) for regulating the employment of construction workers, whether registered or not, and the terms and conditions of such employment, including rates of remuneration, hours of work and conditions as to holidays and wages in respect thereof;
- (e) for securing work, in respect of period during which employment or full employment is not available, for registered construction workers and who are available for work as such workers;
- (f) for prohibiting, restricting or otherwise controlling the employment of construction workers who are not registered and the employment of construction workers by employers who are not registered;
- (g) for creating such fund or funds as may be necessary or expedient for the purposes of the social security and welfare benefits and for the administration of such fund or funds;
- (h) for the training and welfare of construction workers, in so far as satisfactory provision thereof does not exist under any other law apart from this Act;
- (i) for the welfare of the officers and other staff of the Board;
- (j) for providing health and safety measures in places where construction workers are employed in so far as satisfactory provision thereof does not exist;
- (k) for the manner in which, and the persons by whom, the cost of operating the functions of Board is to be defrayed;
- (l) for constituting, the authority to be responsible for the administration of the Board;
- (m) setting up authorities to be responsible for the administration of the scheme at the State levels;
- (n) providing for constitution of adjudicating and appellate bodies to deal with disputes that may arise between construction workers and the contractors or between construction workers and the Board, or between construction workers and construction workers; and
- (o) for such incidental and consequential matters as may be necessary or expedient for the purposes of the Act.

Labour
Board
to be a
body
corporate.

6. The Construction Labour Board set up under section 4 shall be a body corporate with a common seal and succession

7. (1) The Board shall set up a Committee, consisting of a Presiding Officer, who shall be elected from amongst members, and such number of members representing employers and workers, in equal proportion, as may be prescribed, in every revenue district.

Constitution of committees and units of Board.

(2) The Committee shall set up units in every municipal town/city and also in centres wherein not less than one thousand workers are normally engaged in construction work.

(3) Every unit set up under sub-section (2), shall consist of a Presiding Officer, duly appointed by the Board, and such number of members representing employers and workers, in equal proportion, as may be prescribed.

(4) Every committee shall supervise the functioning of various units under its jurisdiction and send an annual report to the Board with particular reference to payment of wages to workers and their welfare measures.

8. The Board may take such measures as it may consider desirable for furthering the objectives of the Act and in particular shall—

Functions of the Construction Labour Board.

(a) ensure adequate supply and the full and proper utilisation of the construction labour for the purpose of facilitating time-bound and scheduled completion of construction work;

(b) regulate employment in construction industry;

(c) maintain a register of workers and allot them to employers and to remove the names of workers from the register;

(d) maintain a register of employers and register contractors or agents as employers in accordance with and subject to the provisions of the Act;

(e) review the number of registered employers and construction workers and determine from time to time the number to be maintained in the register;

(f) keep and maintain register of workers and records of workers who are temporarily not available for work and to remove from any register/record the name of any worker on his own request or in accordance with the provision of the rules;

(g) group or regroup all registered workers into such groups as may be determined by the Board after consultation with the administrative units and review the grouping from time to time having regard to the altered/changing condition and nature of construction work;

(h) make provisions for training and welfare of registered workers including provisions for creches and housing;

(i) levy and collect from registered employers contributions in respect of expenses of the Board;

(j) make provisions for application of the insurance, health and safety measures for construction labour;

(k) maintain and administer the Construction Labour Welfare Fund consisting of contributions from all registered employers;

(l) maintain and administer records of provident fund, death-cum-retirement gratuity Fund, in respect of construction labour;

(m) call for annual meeting of district units, representatives of which shall be on annual rotation;

(n) determine the rate of wages for different categories of construction workers and the minimum guaranteed wages for a month;

(o) provide for measures of safety and security at places of work and measures for promoting the health and welfare of construction workers; and

(p) borrow or raise money for the purpose of securing any debt or obligation mortgaging or charging all or any part of the property of the Board.

Income of Board to be used for welfare of workers.

9. (1) The income and property of the Board from whatever source derived shall be applied solely for the health, safety, training and other welfare measures for the construction workers (including assistance by way of grant or loan or otherwise to cooperative societies formed for the exclusive interest of construction workers.)

(2) No portion of income of Board shall be paid or transferred, directly or indirectly, by way of dividend, bonus or otherwise, to the members of the Board.

Remuneration to members and employees of Board.

10. Nothing herein shall prevent the payment of reasonable and proper remuneration and expenses to any officer or servant of the Board or to any member of the Board in return of any service actually rendered to the Board.

Board to maintain proper accounts.

11. The Board shall maintain proper accounts of its cost of operation and of all receipts and expenses.

Board to submit documents to Central Government.

12. The Board shall submit to the Central Government—

(i) as soon as may be after the first day of April in every year and not later than the thirty-first day of October, an annual report on the working of the Board during the preceding year ending the thirty-first day of March together with an audited balance sheet; and

(ii) copies of proceedings of the meetings of the Board.

Responsibilities and duties of the Board.

13. The Board shall be responsible for dealing with all matters of policy and in particular may—

(a) lay down guidelines for the Administrative Bodies in regard to fixing the number of workers to be registered under various categories;

(b) increase or decrease the number of workers in any category on the register from time to time as may be necessary after a periodical review of the registers and anticipated requirements of construction activities;

(c) sanction the temporary registration of a specified number of workers in any category;

(d) sanction the temporary registration of a specified number of the workers in any category for a specific period for purposes of specific construction work;

(e) consider registration of new employers on the recommendation of the President;

(f) prescribe forms, records, registers, statements and the like required to be maintained under this Act;

(g) determine the wages, allowances and other conditions of service and refix the guaranteed minimum wages for a month after annual review;

(h) fix the rate of contribution to be made by registered employers to the construction workers welfare fund set up under section 49;

(i) appoint, abolish or reconstitute Committees for ensuring compliance with the provisions of this Act;

(j) constitute, reconstitute or abolish District Committees or Local area Committees for carrying out the functions of the Board;

(k) sanction the annual budget;

(l) sanction the creation of posts and make appointments to such posts;

(m) constitute dispute resolution councils at such district/local area level for adjudication of disputes between construction workers *inter se* or between employers and their agents *qua* discharging of their obligations;

(n) discuss statistics of output of labour and record its observations and directions; and

(o) sanction the opening of accounts in such scheduled banks as it may direct and the directions as to the operation of such accounts.

14. (1) The President shall, at a special meeting to be held before the end of February in each year, lay before the Board the annual budget, as received from the Administrative Bodies under clause (h) of section 20 for the year commencing on the first day of April, in such detail and form as the Board may, from time to time, prescribe.

Annual
estimates.

(2) The Board shall consider the budget so presented and sanction the same either unaltered or subject to such alterations as it may deem fit.

15. (1) The President shall have full administrative and executive powers to deal with all matters relating to the day-to-day administration of the Board and in particular shall—

Responsi-
bilities
and
duties
of the
Presi-
dent.

(a) ensure that the decisions of the Board in regard to the maintenance of the workers' registers are carried out expeditiously;

(b) ensure that the registration of temporary workers is carried out without delay;

(c) supervise and control the working of the Administrative Bodies and take suitable steps if any irregularities are detected by him or brought to his notice;

(d) ensure that the provisions of this Act in regard to transfer and promotion of workers are carried out;

(e) constitute construction workers' medical units wherever required having regard to the number of registered construction workers in a local area;

(f) ensure that the conditions, laid down in this Act, for the registration of employers are complied with;

(g) ensure that all forms, registers, returns and documents prescribed under the Act are properly maintained;

(h) sanction the transfer of a registered construction worker to reserve pool at the request of the employer or the worker, as provided for in the Act;

(i) deal with appeals under the Act;

(j) fill any casual vacancy in the post of Vice-President for any period till the appointment is made by the Board in accordance with the provisions of the Act;

(k) discharge all other duties and responsibilities specifically vested in the President by the Board under the Act.

(2) The President may delegate in writing to the Vice-President any of his functions under sub-section (1) except those mentioned in clause (c) and (j):

Provided that such delegations of functions, however, shall not divest the President of his powers.

**Responsi-
bilities
and
duties
of the
Vice-
Presi-
dent.**

16. The Vice-President shall be a whole-time officer of the Board and shall assist the President in the discharge of his functions and in particular shall—

(a) function as Secretary of Board to which he may be nominated as a member;

(b) preside over the meetings of the Board in the absence of the President.

**Adminis-
trative
Body.**

17. (1) The Central Government may, by notification, in the Official Gazette, appoint an Administrative Body for the purpose of carrying on the day-to-day administration of the Board.

(2) The Administrative Body shall, subject to the supervision and control of the Board and the President and subject to the provisions of section 8, carry on the day-to-day administration of the scheme.

**Stat.
Admini-
strative
Bodies.**

18. There shall be constituted administrative bodies by the Board in every State and Union territory consisting of such number of members as the Board may determine.

**Func-
tions of
Adminis-
trative
Body**

19. The Administrative Body constituted under section 17 shall be responsible for—

(i) authorising construction involving 500 or more workers;

(ii) effecting transfer of workers from one district to another;

(iii) preparation for the entire State proposals for better administration of the Act and present the same to the Board for its approval.

20. The President, the Vice-President and the Administrative Body of each State shall in particular be responsible for—

Func-
tions of
State
Adminis-
trative
Bodies.

(a) keeping, adjusting and maintaining the employers' register and entering or re-entering therein the name of any employer and, where circumstances so require, removing from the register the name of any registered employer, either at his own request or in accordance with the provisions of the Act;

(b) keeping, adjusting and maintaining from time to time such registers or records, as may be necessary of construction workers including any registers or records of workers who are not available for construction work and whose absence has been approved by the Administrative Body and where circumstances so require, removing from any register or record the name of any registered construction worker either at his own request or in accordance with the provisions of the Act;

(c) the employment and control of registered workers available for work when they are not otherwise employed in accordance with the Act;

(d) the grouping and regrouping of registered workers in accordance with the instructions received from the Board in such groups as may be determined by the Board;

(e) the allocation of registered workers in the reserve pool who are available for work to registered employers and for this purpose the Administrative Body shall—

(i) be deemed to act as an agent for the employer;

(ii) make the fullest possible use of registered workers in reserve pool;

(iii) keep the record of attendance, at call stands or control points of registered workers;

(iv) provide for maintenance of the records of employment and earnings of workers;

(v) subject to the allotment of work by rotation, allocate workers in accordance with sections 26 and 27; and

(vi) make necessary entries in the attendance and wage cards of workers in the reserve pool as laid down in section 8;

(f) the collection of employers' contribution to the Construction Workers' Welfare Fund or any other contribution from the employees as may be prescribed under the Act and the collection of workers' contribution to the Provident Fund, Insurance Fund or any other fund which may be constituted under the Act;

(g) the payment as agent of the registered employer to each worker of all earnings properly due to the worker from the employer and the payment to such workers of all monies

payable by the Board to these workers in accordance with the provisions of the scheme;

(h) keeping of proper accounts of the costs of operating the scheme and of all receipts and expenses under it and making and submitting to the Board an annual report and audited balance sheet;

(i) the framing of the annual budget and submitting the same to the Board on or before the fifteenth day of February in each year and getting it approved by the Board;

(j) maintaining complete service records of all registered construction workers; and

(k) such other functions as may from time to time, subject to the provisions of the Act, be assigned to it by the Board or the President.

Func-
tions of
District
units,

21. Every District Committee shall—

(i) nominate, in rotation, the members to participate in the various Administrative Committees of the District Units;

(ii) supervise the functioning of units;

(iii) prepare the annual budget for the District and send the same to the State Administrative Body;

(iv) administer Welfare Fund in consultation with and approval of the State Administrative Body;

(v) effecting transfer of workers;

(vi) settle complaints through dispute resolution councils regarding registration, payment of wages, allocation of workers and such other grievances of workers;

(vii) to settle complaints regarding authorisation for construction and such other grievances of employers; and

(viii) authorise constructions where permanent labour are employed.

Registra-
tion of
employ-
ers and
authori-
sation of
cons-
truction
work.

22. (1) Every employer shall obtain sanction from the authorised unit of the Board before commencement of construction work after paying the contribution which shall not be less than two per cent. of cost of building.

(2) Every contractor or employer shall get an authorisation from the respective unit of the Board after paying the aforesaid or any other contribution before getting a licence and shall renew it every year subject to such terms and conditions as the Board may prescribe.

(3) The employer if intending to employ permanent labour shall get such authorisation from District Committees of the Board after furnishing necessary security which may be such percentage of the cost of construction from stage to stage, as may be determined by the Board.

(4) The sanction or authorisation for commencement of construction work shall be given subject to past performance of the employer/contractor in complying with provisions of the Act.

23. Every unit shall maintain the records of authorisation of construction made to employers from time to time.

Record of authorisation.

24. (1) Permanent workers working with licensed contractors or construction companies on better terms than those provided for in the Act as also their employer may be exempted from the application of this Act on an application made on their behalf to the Board and the Board shall after hearing both the parties in regard to the grant of exemption, may do so subject to such terms and conditions as may be just and equitable.

Exception to permanent workers.

(2) The exemption granted under sub-section (1) shall be subject to revocation on an application made by the workers Board that the benefits available to them are not at par with those available under the scheme or have ceased to be more beneficial than those available under the Act.

(3) A Register of exempted permanent workers and employers under sub-section (1) shall be maintained by every district unit.

PART III

REGISTRATION OF CONSTRUCTION WORKERS

25. (1) All construction workers who can establish their *bona fide* through—

Principles for Registration of construction workers.

(i) registered union's membership of previous year;

(ii) certificates from employers or licensed contractors of having worked for the previous year,

shall be registered in the reserve pool of construction labour.

(2) The construction workers, who are not able to establish their *bona fide* shall be registered as temporary workers in a provisional list and subject to completion of one hundred and eighty days of working/ marking attendance in the next two hundred and ten days and availability of work within the unit, the list shall be modified accordingly.

(3) Every construction worker after completing one year from registration shall be entitled to all financial benefits under the Act.

(4) During second half of the first year, they shall be entitled to attendance allowance.

26. (1) When a vacancy arises in a particular category in reserve pool, other than the casual vacancy, a worker in the next lower category shall ordinarily be promoted to fill up the vacancy.

Promotion and transfer of workers.

(2) The Presiding Officer of the District Unit may transfer monthly worker to reserve pool on application by employer or the worker concerned after due enquiry.

(3) On request from a unit, the Presiding Officer of the District Committee may make mass temporary transfer of workers (more than one hundred workers) from one unit to another within the District.

(4) On request from the Presiding Officer of a District Committee, the administrative body of the State may make mass temporary transfer of workers (more than one hundred workers) from one district to another within the State.

(5) Inter-State temporary transfers of construction labour shall take place only with the approval of the Board and Labour Departments of the respective states.

(6) The transfer of construction workers from one unit to another on permanent basis shall take place only on approval by the District Presiding Officer:

Provided that such transfer of construction workers exceeding fifty in number on permanent basis shall take place only on approval by Administrative Body of the State on recommendation by District Presiding Officer concerned.

(7) On every transfer of workers, copies of existing register of workers shall also be sent to the transferred unit(s).

Employment.

27. (1) A worker in the regular pool shall be given preference over the worker in the reserve pool.

(2) No worker shall ordinarily be employed for more than eight hours in a day:

Provided that wherever a worker is required to work beyond the eight hour period he shall be paid overtime wages to be computed by the Board having regard to the nature of the construction work, the place of work, the existing wage structure and such other factors as may be relevant.

(3) The workers of each category shall be allotted work by rotation:

Provided that where work is carried on in a gang, the allotment of workers by rotation shall be by gang.

(4) In case of any casual vacancy that may be caused in the reserve pool when a higher category worker goes on leave, then the senior most worker of the next lower category shall work in his place and the resultant vacancy shall be filled by leave reserve workers by rotation.

Facilities for training.

28. The Construction Labour Board shall make provisions for training of registered construction workers in the various skills of construction and also for development of appropriate construction technology suitable to different areas.

Registration fee.

29. A registration fee of rupees five shall be payable to the Board by each worker at the time of registration.

Supply of identity cards, etc.

30. (1) Every registered worker shall be supplied free of cost with an identity card, an attendance card, and a wage card in the forms prescribed by the Board.

(2) In case of loss of a card, a fresh card shall be issued and the cost thereof to be fixed by the Board shall be payable by the worker concerned.

Service records of registered workers.

31. A 'Service Record', on the basis of information supplied by registered employers, of all workers shall be maintained by the Administrative Body of each State in a form to be prescribed by the Board, which shall contain, among other things, a complete record of past performance, skills displayed, efficiency, promotions, commendation for good work, etc. of the registered workers.

32. (1) A worker in the reserve pool register shall be paid wages atleast for twelve days in a month at the wage rate, inclusive of dearness allowance, to be prescribed by the Board, appropriate to the category to which he permanently belongs, even though no work was found for him for the minimum number of twelve days in a month.

Guaranteed minimum wages.

(2) The guaranteed minimum wages in a month shall be—

(a) for the number of days for which wages are guaranteed, on the norms to be fixed by the Board, in a month subject to the condition that the worker attended work on all days of the month as directed by the Administrative Body of the State; or

(b) proportionate to the number of days on which the worker attended work provided he was excused from attendance on all the remaining days of the month.

(3) Subject to the provisions of sub-sections (1) and (2), the minimum number of days in a month for which wages are guaranteed may be fixed by the Board for each year on the basis of the monthly average employment obtained by the workers in the reserve pool during the preceding year until the minimum number of days reaches twenty one:

Provided that the number so fixed shall not in any case be less than the number in the preceding year.

(4) The minimum number of days for which wages shall be guaranteed under sub-sections (1), (2) and (3) shall not automatically apply to workers in new categories who may be registered after the date of enforcement of this Act and the minimum number of days for which wages shall be guaranteed to workers of those categories shall be determined after completion of one year of registration, annual refixation of the minimum number of days as under sub-section (3) shall be done independently in their case also.

Explanation: For the purposes of this section a 'day' shall mean a 'shift' and a 'month' shall not include the days of weekly holiday provided that there is no payment for that day.

33. Subject to the other provisions of this Act, a registered worker who is available for work but for whom no work has been found shall be paid attendance allowance, exclusive of dearness allowance, at the rate of minimum two rupees per day for the days on which during a calendar month he reported for work as directed by the Administrative Body of the State but no work was found for him:

Attendance allowance.

Provided further that no attendance allowance shall be payable for any day for which full wages, inclusive of dearness allowance, have been paid under section 31 or for which disappointment money is paid under section 34.

34. When a worker in the reserve pool reports for work and for any reason the work for which he reports cannot commence or proceed and no alternative work can be found for him and he is relieved within two hours of his reporting for work, he shall be entitled to disappointment money equal to half the time-rate inclusive of dearness allowance applicable to the category to which he belongs:

Disappointment money.

Provided that a worker detained for more than two hours shall be paid full-time-rate wage inclusive of dearness allowance.

Holidays.

35. Each worker shall be entitled to fifteen days holidays, in a year with pay at such rates as may be prescribed by the Board, including national and festival holidays, and any payment made under this section shall be exclusive of the payment calculated under section 32.

Obligations of construction workers.

36. (1) Every registered construction worker shall be deemed to have accepted the obligations under this Act.

(2) A registered construction worker in the reserve pool who is available for work shall be deemed to be in the employment of the Board.

(3) A registered construction worker in the reserve pool who is available for work shall not engage himself for employment under a registered employer unless he is allocated to that employer by the Administrative Body of the State.

(4) A registered construction worker in the reserve pool who is available for work shall carry out the directions of the Administrative Body of the State and shall—

(a) report at such call stands or control points as may be fixed by the District/Local area units and at such times as may be specified by the Administrative Body and shall remain at such call stands or control points,—

(i) throughout the work period, if instructed by the administrative body to that effect, on payment of such retention allowance as may be prescribed by the Board; or

(ii) for such period, not exceeding one hour, as may be specified; and

(b) accept any employment in connection with construction work, whether in the category in which he has been registered or in any other category for which he is considered suitable by the Administrative Body.

(5) A registered construction worker who is available for work when allocated by the Administrative Body of the State for employment under registered employer shall carry out his duties in accordance with the directions of such registered employer or his authority or representative or supervisor and the rules of the local administration of the area, in regard to norms and specifications of construction.

Obligations of employers.

37. (1) A registered employer shall not employ any worker other than a construction worker who has been allocated to him by the Administrative Body of the State in accordance with the provisions of this Act.

(2) A registered employer shall, in accordance with arrangements made by the Board, submit all available information of his current and future labour requirements to the Board.

(3) A registered employer shall—

(i) submit to the construction labour Board, in such manner and at such times as the Board may direct, the wage bill for every month and contribution payable under section 49;

(ii) make payment of allowance and contribution to Employees State Insurance, Provident Fund, Gratuity and the contributions to the construction workers welfare fund under sections 46 to 48.

(4) A registered employer shall keep such record as the Board may require, and shall produce to the Board or to such other authority as may be designated by the Board, upon reasonable notice, all such re-

construction workers and the work upon which they have been employed and furnish such information relating thereto, as may be set out in any notice or directions issued by or on behalf of the Board.

38. No person other than a registered employer shall employ any worker on construction work nor shall a registered employer engage or, subject to the relaxation given under section 24, employ a worker on construction work unless that worker is a registered construction worker.

Restric-
tion on
employ-
ment.

4 of 1936.

39. The rates of wages, allowances and over-time, hours of work, rest interval, holidays and pay in respect thereof and other conditions of service shall be such as may be prescribed by the Board for each category of workers; and the fixation of wage periods, time for payment of wages and deductions from wages shall be in accordance with the provisions of the Payment of wages Act, 1936.

Wages,
allow-
ances
and
other
condi-
tions of
service.

40. (1) Subject to the conditions laid down under this Act, when any registered construction worker is available for work but is not given employment or full employment he shall be entitled to receive such amount as wages from the Board as may be admissible to him under this Act.

Payment
of wages
in case
of un-
emp-
loyment
and
under-
employ-
ment

(2) A registered construction worker shall be entitled to receive payment under sub-section (1) (if any) from the Board if—

(a) he attends to work as directed at the call stands or control points; and

(b) his attendance was recorded.

41. (1) A registered construction worker, when fails, without any adequate cause, to comply with the provisions of sub-section (4) of section 38 or fails to comply with any lawful orders given to him by his employer, his services shall be terminated by his employer and the reasons for termination shall be reported in writing to the concerned Labour Officer, who shall order the construction worker to be sent to the reserve pool and the Administrative Body shall endorse his attendance and wage cards accordingly.

Disenti-
tlement
to pay-
ment.

(2) The Labour Officer shall consider any matter arising under sub-section (1) including report thereunder and if, after investigating the matter, he notifies the registered construction worker that he is satisfied that the registered construction worker had failed to comply with a lawful order, the registered construction worker shall not be entitled to any payment, or to such part of any payment as the Labour Officer thinks fit in respect of the wage period in which such failure occurred or continues.

PART IV

HEALTH AND SAFETY PROVISIONS

Supply
of drink-
ing
water,
etc.

42. (1) At every site where construction work is in progress, effective arrangements shall be made by the employer to provide and maintain at convenient places on the site/land sufficient supply of drinking water for all workers.

(2) At every site there shall be provided by the employer a sufficient number of latrines and urinals separately for males and females of prescribed types so situated as to be convenient and accessible to workers employed therein.

(3) All latrines and urinals provided under sub-section (2) shall be maintained in a clean and sanitary condition, with water facility.

Medical
facili-
ties.

43. (1) At every site there shall be provided and maintained, so as to be readily available, such medical facilities, such as first-aid box, etc. for the workers, as may be prescribed by the State Government.

(2) At any site if medical facilities are not provided and maintained as required by sub-section (1) the Labour Officer may cause to be provided and maintained therein such medical facilities and recover the cost thereof from the defaulting employer or contractor as the case may be.

(3) For the purpose of such recovery, the Labour Officer may recover the costs as a penalty by way of a fine from the employer or contractor, as the case may be.

Safety
provi-
sions.

44. (1) Wherever a worker is required to work at a place which is more than ten feet high, effective safety measures shall be provided for working at such heights, by providing the worker with metal or wooden scaffolding and wooden ladders with rubber shoes and supports which shall not give way under weight.

(2) Where work is of such nature involving workers to come into contact with cement, lime and such other materials which are hazardous to handle with bare hands, the workers shall be provided with rubber gloves and also adequate protection for the feet by way of gum boots.

(3) Every worker shall be provided with proper nose guard while he is engaged in the construction activity when handling substances such as cement, lime, tar, etc.

(4) Rules shall be made regarding safety measures to be provided by employers, in order to prevent occupational hazards.

Creches.

45. Creches shall be provided and administered by the Board and by involving workers' organisations and voluntary organisations in appropriate locations at worksites and residential areas in order to cater to the needs of the babies of the construction workers registered in a particular area.

Payment
of gra-
tuity to
workers.

46. The Board shall determine, by rules, the rate of contribution from the workers and the employers and the manner and method of payment of such contribution and for payment of gratuity to workers by employers.

47. The Employees State Insurance Scheme shall be made applicable to construction workers and wherever the coverage cannot be provided, the Board shall take steps for provision of medical facility to the construction workers.

Employ-
ees State
Insu-
rance
Scheme
to be
applica-
ble to
workers.

48. The registered women workers shall be provided with maternity benefits by the Board in accordance with the provisions of the Maternity Benefit Act, 1961.

Matern-
ity
benefits.

49. The cost of amenities, welfare and health measures and recreation facilities including activities for children of registered workers shall be met from a fund to be known as the Construction Workers Welfare Fund, which shall be maintained by the Board and contributions to which shall be made by all the registered employers at such rate as may be determined by the Board.

Construc-
tion
Workers
Welfare
Fund.

50. (1) The cost of operating the Board shall be defrayed by payments made by registered employers to the Board.

Cost of
operat-
ing the
Board.

(2) Every registered employer shall pay to the Board such amount as the Board may, from time to time, prescribe by a written notice to registered employers.

(3) In determining what payments are to be made by registered employers under sub-section (1), the Board may fix different rates of contribution for different categories of work or workers.

(4) A registered employer shall, on demand, make a payment to the Board by way of deposit or, provide such other security for the due payment of the amount referred to in sub-section (2) as the Board may consider necessary.

(5) If a registered employer fails to make the payment due from him under sub-section (2) or any other amount due and payable to the Board in any other capacity or account within the time prescribed by the Administrative Body, the Administrative Body shall serve a notice on the employer to the effect that, unless he pays his dues within three days from the date of receipt of the notice, the allocation of registered construction workers to him shall be suspended and on the expiry of the notice period the Administrative Body shall suspend the supply of registered construction workers to a defaulting employer until he pays his dues.

PART V

RESOLUTION OF DISPUTES, APPEALS, ETC.

51. (1) Where the appropriate unit of the Board is of the opinion that any dispute exists or is apprehended, it may at any time by order in writing—

Refer-
ence of
disputes
to Board
or Coun-
cils.

(a) refer any matter appearing to be connected with or relevant to the dispute to a dispute resolution council for resolution of the dispute as provided in the Act; or

(b) refer the dispute to the Board for a settlement thereof;

(2) No proceedings involving payment of dues or compensation or any other amount pending before a dispute resolution council or the appellate authority in relation to an industrial dispute shall lapse merely by reason of the death of any of the parties to the dispute being a workman, and such council or appellate authority shall complete such proceedings and submit its award to the appropriate unit of the Board.

Proce-
dures,
powers
and
duties of
authori-
ties.

52. (1) Subject to any rules that may be made in this behalf, the dispute resolution council or appellate authority shall follow such procedure as may be deemed fit, and conforming to principles of natural justice.

(2) Every dispute resolution council or the appellate authority or Board shall have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 when trying a dispute in respect of the following matters, namely— 5 of 1908.

(a) enforcing the attendance of any person and examining him on oath;

(b) compelling the production of documents and material objects;

(c) issuing commissions for the examination of witnesses;

(d) in respect of such other matters as may be prescribed; and every inquiry or investigation by a Board or dispute resolution council shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code. 45 of 1860.

(3) Every document in relation to a dispute shall be a public document within the Indian Evidence Act, 1872. 1 of 1872.

(4) The dispute resolution council may enforce the attendance of any person for the purpose of examination of such person or call for and inspect any document which it considers to be relevant to the implementation of any award or carrying out any other duty imposed on it under this Act and for the aforesaid purposes, the council shall have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908. 5 of 1908.

(5) All members of the council or appellate authority shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code. 45 of 1860.

(6) Subject to any rules made under this Act, a council or an appellate authority in any proceedings shall have full power to determine by and to whom and to what extent and subject to what conditions, if any, costs of the proceedings are to be paid, and shall also have the power to give necessary directions for the purposes aforesaid and such costs may, on application made to the Board, be recovered by that Government in such manner as it deems appropriate.

(7) Every Council shall be deemed to be a Civil Court for the purposes of sections 345, 346 and 348 of the Code of Criminal Procedure, 1973. 2 of 1974.

53. No civil or labour court shall entertain any suit or application in respect of any matters arising under this Act.

Bar of jurisdiction of Civil and Labour Courts. Punishment for obstructions.

54. (1) Whoever obstructs a Labour Officer or a person authorised to discharge his functions in the discharge of his duties under this Act or refuses or wilfully neglects to afford the Labour Officer or authorised person any reasonable facility for making any inspection, examination, inquiry or investigation authorised by or under this Act in relation to an establishment shall be punishable with imprisonment for a term which may extend to two years or with fine which may extend to two thousand rupees or with both.

(2) Whoever wilfully refuses to produce on the demand of any Labour Officer or authorised person, any register or other document kept in pursuance of this Act, or prevents or attempts to prevent or does anything which he has reason to believe is likely to prevent any person from appearing before or being examined by any Labour Officer or authorised person acting in pursuance of his duties under this Act, shall be punishable with imprisonment for a term which may extend to two years or with fine which may extend to two thousand rupees or with both.

(3) Such obstruction or wilful refusal shall at once reported to the respective unit of the Board within whose jurisdiction such obstruction/wilful refusal takes place as well as to the Board which may also take appropriate action in accordance with the Act.

55. (1) There shall be established by the Board a council to be known as the Dispute Resolution Council in every District Unit or local area unit, consisting of three members representing the Government, the construction workers and the employers for the purpose of settling disputes between workers and workers and between workers and employers.

Constitution of Dispute Resolution Councils and Appellate Authorities.

(2) The term of office of the members of the Council shall be three years and the members shall be nominated by the Board for such term.

(3) The Board shall also constitute an Appellate Authority, in every district unit, consisting of three members representing the Government, the Workers and the employers.

56. (1) Every offence punishable under this Act and the scheme made thereunder shall be cognizable only by Chief Judicial Magistrate of the area concerned.

Offences.

(2) Whenever any contravention of the provisions of this Act occurs, the Labour Officer shall or any person may, in writing, complain to the magistrate for trying the offence.

(3) Whenever the Labour Officer, for reasons not excusable or for any other extraneous considerations, refuses or fails to complain such offences, the Board, on a report from the aggrieved person, shall proceed against the Labour Officer in accordance with the Act.

57. (1) The Presiding Officer of the District Committee or of the local units, on receipt of information, whether on a complaint or otherwise, that a registered employer or a contractor or their agents have failed to carry out the provisions of the scheme, shall cause the immediate investigation of the matter through the dispute resolution council of the unit.

Enforcement procedures.

(2) The dispute resolution council may, after investigation into the matter referred to it under sub-section (1), pass the orders for:—

(a) cessation of construction work, till the employer, contractor or their agent rectifies the defect amounting to non-compliance of the Act;

(b) imposition of fines, not exceeding a certain percentage of the monthly wage bill, to be fixed by the Board from time to time, which shall be credited to the Workers Welfare Fund;

(c) removal of name from the employers' register for such period as may be determined by the Board, or permanently in case of a grave offence.

(3) A registered construction worker in the reserve pool, who fails to comply with any of the provisions of the Act or commits any act of indiscipline or misconduct, may be reported, in writing, to the Dispute Resolution Council, through the Presiding Officer, which may, after investigating the matter, take any of the following steps as regards that worker, that is to say, it may—

(a) give him a warning in writing or

(b) determine that, for such period as it thinks proper, the worker shall not be entitled to any payment or part payment under section 40; or

(c) suspend him without pay for a period not exceeding three days.

(4) Wherein a case reported to the Presiding Officer under sub-section (3), he is of the opinion that the act of indiscipline or misconduct is so serious that the worker disentitled himself for work the Presiding Officer may, pending investigation of the matter, suspend the worker and report immediately to the dispute resolution council which after preliminary investigation of the matter shall pass order thereon whether the worker, pending final orders, shall remain suspended or not.

(5) Where a worker has been suspended by an order under sub-section (4), he shall be paid for the first fifteen days from the date of suspension a subsistence allowance equal to one-half of the basic wages, dearness and other allowances to which he would have been entitled if he were on leave with wages, and thereafter the President, in exceptional cases, grant higher subsistence allowance not exceeding three fourth of such basic wages, dearness and other allowances.

(6) Where such enquiry is prolonged beyond a period of fifteen days for reasons directly attributable to the worker, the subsistence allowance shall, for the period exceeding the said period, be reduced to one fourth of the basic wages, dearness and other allowances.

(7) The subsistence allowance so paid shall not be recoverable or liable to forfeiture in any case whatsoever;

(8) Where a worker is found not guilty, he shall be entitled to such payments as the worker would have received on the time rate basis or under section 32 had he not been suspended;

(9) The amount payable under sub-section (8) shall be reduced by the amount of subsistence allowance payable or already paid during a particular period.

(10) Where a construction worker has failed to comply with any of the provisions of the Act wilfully and recklessly or has committed a serious act of indiscipline or misconduct, or has consistently failed to produce the standard output or has been inefficient in any other manner, the Council may make or cause to be made such further investigations as it may deem fit and thereafter take any of the following steps, as regards the worker concerned, that is to say, it may impose any of the following penalties:—

(i) suspend him without pay for a period not exceeding three months; or

(ii) terminate his services after giving fourteen days notice or fourteen days wages inclusive of dearness allowance in lieu thereof; or

(iii) remove the worker from the registers of the Board.

(11) Before any action is taken under this section the person shall be given an opportunity to show cause why the proposed action should not be taken against him and such person, may if he so desires, adduce evidence in respect of such action.

(12) The Administrative Body shall be informed simultaneously about the action taken under this section.

58. (1) The employment of a registered construction worker in the reserve pool shall not be terminated except in accordance with the provisions of the Act.

Termination of employment.

(2) A registered construction worker in the reserve pool shall not leave his employment with the Board except by giving fifteen days notice in writing to the Board.

(3) When the employment of a registered construction worker with the Board, has been terminated under sub-sections (1) or (2), his name shall be removed from the register or record by the Administrative Body.

59. (1) Save as otherwise provided in this section a registered worker or a worker in the reserve pool who is aggrieved by an order passed by the dispute resolution council, may prefer an appeal against such order to the appellate authority.

Appeal by workers.

(2) A worker who is aggrieved by an order:—

(i) placing him in a particular group in the register or record;

(ii) refusing registration under section 25; or

(iii) requiring him under clause (b) of sub-section (4) of section 36 to undertake any work which is not of the same category to which he belongs, may prefer an appeal to the President of the District Committee or the local unit, as the case may be.

(3) Every appeal referred to in sub-sections (1) and (2) shall be in writing and preferred within fourteen days of the date of receipt of the order appealed against,

(4) The appellate authority may after giving an opportunity to the appellant to be heard, if he so desires, and with reasons to be recorded in writing, pass such order as it thinks fit, and the order so passed shall be final and conclusive.

(5) Every order passed under sub-section (4) shall be communicated to the appellant:

Provided that the appellate authority may for reasons to be recorded admit an appeal preferred after expiry of fourteen days.

(6) An appellant shall not be ordinarily entitled to be represented by a legal practitioner before the appellate authority but he shall be entitled to be represented by a representative of the registered trade union of which he is a member or by a registered construction worker, wherever an application or request is made to this effect and the appellate authority considers the request reasonable having regard to the nature of the case.

(7) Where the employer is sought to be represented by a person qualified in law or by a company secretary, the worker shall have the right to be represented by a legal practitioner of his choice.

**Appeal
by emp-
loyers.**

60. (1) A registered employer who is aggrieved by an order of the dispute resolution council under sub-section (2) of section 57 may also appeal to the appellate authority, whose order shall be final and conclusive and there shall be no appeal against it.

(2) An employer whose name has been removed from employer's register under clause (c) of sub-section (2) of section 57 may appeal to the Board through President and the order of the Board shall be final and conclusive and there shall be no appeal against it.

(3) Every appeal referred to in sub-sections (1) and (2) shall be in writing and preferred within fourteen days of the receipt of the order appealed against.

(4) An appellant shall not be entitled to be represented by a legal practitioner before the appellate authority but he shall be entitled to be represented by a representative of the association of registered employers, if any, of which he is a member.

**Penal-
ties.**

61. (1) Any contravention of section 37 shall be punishable with imprisonment for a period not exceeding three months in respect of the first contravention or six months in respect of any subsequent contravention or with fine not exceeding five thousand rupees in respect of the first contravention or ten thousand rupees in respect of any subsequent contravention, or with both.

(2) The fine so collected under sub-section (1) shall be credited to the Welfare Fund.

PART VI

MISCELLANEOUS PROVISIONS

**Power to
make
rules.**

62. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

There are nearly 2 crore construction workers in India. These construction workers get low wages and have no educational, housing or creche facilities. Accidents at the work sites are very frequent while medical facilities are almost nil. Neither safety measures are enforced nor is any compensation paid to the victims of accidents. Moreover, the employment of the workers is not continuous as it depends upon the construction activities. They do not get wages for the period they are not employed. The employment is also subject to will and pleasure of employers/contractors. There is an urgent need to regulate the employment of the construction workers.

It is proposed in the Bill to regulate the employment of the construction workers and to provide various facilities to them.

NEW DELHI;
October 13, 1988.

V S. KRISHNA IYER

FINANCIAL MEMORANDUM

Clause 4 of the Bill provides that the Central Government shall constitute a Construction Labour Board consisting of such number of members as may be determined by the Central Government. Clause 5 provides that the Board shall frame a scheme for regulation of employment of construction workers and to provide facilities to them. Clause 7 provides that the Board shall set up committees and units of the Board in every district and Municipal town|city. Clause 10 provides for payment of remuneration to members and employees of Board. Clause 17 provides for the appointment of an administrative body by the Central Government. Clause 18 provides for the appointment of an Administrative Body in each State and Union territory by the Board. Clause 28 provides for training to workers. Clause 30 provides for the supply of identity cards, etc. to the workers. Clause 31 provides for maintenance of service records of workers. Clause 32 provides for payment of minimum wages to workers. Clause 33 provides for payment of attendance allowance to workers. Clause 34 provides for payment of disappointment money to workers. Clause 40 provides for payment of wages in case of unemployment and under-employment of workers. Clause 42 provides for supply of drinking water, etc. at the work sites. Clause 43 provides for medical facilities to workers. Clause 44 provides for safety provisions to workers. Clause 45 provides for provisions of creches. Clause 46 provides for payment of gratuity to workers. Clause 47 provides for medical facilities to workers who are not covered by the employees State Insurance Scheme. Clause 48 provides for maternity benefits to woman workers. Clause 49 provides for constitution of the Construction Workers Welfare Fund. Clause 55 provides for constitution of Disputes Resolution Councils and Appellate Authorities. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is likely to involve an annual recurring expenditure of about rupees two crores from the Consolidated Fund of India.

It is also likely to involve a non-recurring expenditure of about rupees one crore.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 62 of the Bill provides that the Central Government to make rules for carrying out the purposes of this Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL No. 119 OF 1988

A Bill further to amend the Indian Penal Code

Be it enacted by Parliament in the Thirty-ninth Year of the Republic of India as follows:—

1. This Act may be called the Indian Penal Code (Amendment) Bill, 1988.

Short
title.

45 of 1860.

2. For section 500 of the Indian Penal Code (hereinafter referred to as the principal Act), the following section shall be substituted, namely :—

Substitu-
tion of
new
section
for
section 500.

"500. (1) Whoever defames another shall, in the case of the first offence, be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to two thousand rupees, or with both, and, in the case of a second or subsequent offence, with imprisonment which may extend to five

Punish-
ment for
defamation.

years, or with fine which may extend to five thousand rupees, or with both.

(2) Where the offence has been committed by publishing an imputation in a newspaper, the court convicting the offender may further order that its judgment shall be published, in whole or in part, in such newspaper and in such manner as it may specify.

(3) The cost of such publication shall be recoverable from the convicted person as if it were a fine.

Explanation.—The court may, before passing a sentence under this section, take into consideration the question whether the guilt of the accused is aggravated by the plea and the nature of the evidence adduced to prove or disprove it.”.

Substitu-
tion of new
section
for
section 501.

3. For section 501 of the principal Act, the following section shall be substituted, namely :—

Printing
or en-
graving
matter
known to
be
defamatory.

“501. Whoever prints or engraves any matter, knowing or having good reason to believe that such matter is defamatory of any person, shall, in the case of the first offence, be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to two thousand rupees, or with both, and, in the case of a second or subsequent offence, with imprisonment which may extend to five years, or with fine which may extend to five thousand rupees, or with both.”.

Amend-
ment of
section 502.

4. In section 502 of the principal Act, for the words “or with fine”, the words “or with fine which may extend to two thousand rupees” shall be substituted.

Insertion
of new
sections
502A, 502B
and 502C.

5. After section 502 of the principal Act, the following new sections shall be inserted, namely:—

Uninten-
tional
defamation.

“502A. (1) A person who has published any matter alleged to be defamatory of another person may, if he claims that the matter was published by him innocently in relation to that other person, make an offer of amends under this section.

(2) An offer of amends shall—

(a) be in writing;

(b) be expressed to be made for the purposes of this section;

(c) affirm that the person who has published the matter in question (hereinafter in this section referred to as “the publisher”) published the matter innocently in relation to the party aggrieved;

(d) include an offer to publish, or join in the publication of a suitable correction of the matter complained of and a sufficient apology.

Explanation.—Where the matter alleged to be defamatory is published in a newspaper, periodical or circular, the correction and apology

made in pursuance of the offer of amends shall be published in the same manner and with the same prominence as the matter alleged to be defamatory was published.

(3) If an offer of amends is accepted by the party aggrieved and is duly performed, no proceedings for defamation shall be taken or continued by that party against the publisher in respect of the publication in question, but without prejudice to any proceedings against any other person jointly responsible for that publication.

(4) If an offer of amends is not accepted by the party aggrieved, it shall be a defence, for the publisher, in any proceedings for defamation against him in respect of the publication in question to allege and prove—

(a) the facts and circumstances which establish that the matter was published innocently in relation to the party aggrieved;

(b) that the offer made fulfilled the requirements of clause (a), (b) and (d) of sub-section (2) of this section; and

(c) that the offer has not been withdrawn.

(5) For the purposes of this section, any matter shall be treated as published by the publisher innocently in relation to the party aggrieved if, and only if, the following conditions are satisfied, that is to say—

(a) that the publisher did not intend to publish it concerning that party and did not know of the circumstances by virtue of which it might be understood to refer to him; or

(b) that the matter was not defamatory on the face of it, and the publisher did not know of the circumstances by virtue of which it might be understood to be defamatory of that party,

and, in either case, that the publisher exercised all reasonable care in relation to the publication.

502B. In an action for defamation in respect of any matter consisting partly of allegations of fact and partly of expression of opinion, a defence of fair comment shall not fail by reason only that the truth of every allegation of fact is not proved if, having regard to such of the facts alleged or referred to in the matter complained of as are proved, the expression of opinion is fair comment.

Fair
comment.

502C. Notwithstanding anything contained in this Act, the publication of any of the following statements shall not constitute defamation, namely:—

Certain
statements
not to
constitute
defamation.

(a) a fair and accurate report of any proceedings in public of—

(i) a legislature of any foreign country;

(ii) an international organisation of which India is a member, or of organisations recognised by the United Nations, or of any international conference to which the Government of India sends a representative:

(iii) an international court;

(iv) a court of any foreign country;

(v) a fair and accurate report of or extract from any registry kept in pursuance of any Central, Provincial or State Act, which is open to inspection by the public, or of any other document which is required by law for the time being in force in any part of India to be open to inspection by the public; or

(b) a notice or advertisement published by or under the authority of any court, tribunal or commission of inquiry or a committee of investigation constituted by any lawful authority in India;

(c) a fair and accurate report of the findings or decisions of any of the following associations or of any committee or governing body thereof in relation to a person who is a member of, or is subject by virtue of any contract to, the control of, any such association or, of any committee or governing body thereof, that is to say—

(i) an association formed in India for the purpose of promoting or encouraging the exercise of or interest in any art, science, religion or learning, and empowered by its constitution to exercise control over or adjudicate upon, matters of interest or concern to the association, or the actions or conduct of any person subject to such control or adjudication;

(ii) an association formed in India for the purpose of promoting or safeguarding the interests of any game, sport or pastime to the playing or exercise of which members of the public are invited or admitted, and empowered by its constitution to exercise control over or taking part in the game, sport or pastime;

(d) a fair and accurate report of the proceedings of any meeting or sitting of—

(i) any local authority or committee of a local authority;

(ii) any commission, tribunal, committee or person appointed for the purposes of any inquiry under a Central, Provincial or State Act by the appropriate government;

(iii) any person appointed by a local authority to hold a local inquiry in pursuance of any Central, Provincial or State Act;

(iv) any other tribunal, board, committee or body constituted by or under and exercising functions under a Central, Provincial or State Act, not being a meeting or sitting admission to which is denied to representatives of newspapers and other members of the public;

(e) a fair and accurate record of the proceedings at a general meeting of any company or association constituted, registered or certified by or under a Central, Provincial or State Act not being a private company within the meaning of the Companies Act, 1956;

1 of 1956.

(f) any notice or other matter issued for the information of the public by or on behalf of Government or a local authority."

STATEMENT OF OBJECTS AND REASONS

Sections 499 to 502 of the Indian Penal Code deal with defamation. Defamation is both criminal offence and civil liability in India. The Law Commission and the Press Commission had made the recommendations to suitably amend the law relating to defamation. It has been felt that the punishment suggested for defamation is quite inadequate and also certain immunities and privileges have to be given for innocent publications. A fair comment, in public interest, should be exempted from prosecution for defamation. The publication of proceedings of courts, international court and committees and reports of inquiry commissions should also not constitute defamation. Authorities and public must know what is happening in firms and institutes. Investigative journalism has in the recent past brought out many facts through their publications and many cases have been investigated on the basis of such reports. Therefore, in the public interest, such investigations through journalism are to be promoted and privileged. Hence, safeguards are to be provided for investigative journalism where a person is publicly free to bring out the truth to the public.

Hence this Bill.

THAMPAN THOMAS

NEW DELHI;
October 21, 1988.

BILL No, 121 OF 1988

A Bill to provide for the taking over, in the public interest, of the management of textile units, pending nationalisation of such units, with a view to restoring the health of the textile industry and ensuring rational and co-ordinated development of textile production and for promoting optimum utilisation of the installed capacity of the industry and taking effective steps for modernisation of the industry and with a view to protecting textile workmen from unemployment and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Thirty-ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the Textile Industry (Taking Over of Management) Act, 1988.

(2) It extends to the whole of India.

(3) It shall be deemed to have come into force on the 1st day of November, 1988.

Short
title,
extent
and
commence-
ment.

Declaration
as to
expediency
of con-
trol by
the
Union.

2. It is hereby declared that it is expedient in the public interest that the Central Government should take over complete control of the textile industry.

Definitions,

3. In this Act, unless the context otherwise requires,—

(1) "appointed day" means the 1st day of November, 1988;

(2) "company" means a company as defined in section 3 of the Companies Act, 1956, and includes a foreign company within the meaning of section 591 of that Act; 1 of 1956.

(3) "Government company" has the meaning assigned to it by section 617 of the Companies Act, 1956;

(4) "textile industry" means all industrial units engaged in any one of the following activities provided that the number of workmen employed in the unit is not less than three hundred, and includes such units even if they have been closed down on or after the 1st day of January, 1984—

(a) manufacture of cotton yarn, silk yarn, man-made yarn or blended yarn;

(b) manufacture of fabric out of cotton yarn, silk yarn, man-made yarn or blended yarn;

(c) production of jute or woollen fabric including any activity leading to the said production;

(d) dying, bleaching, printing or otherwise processing fabric.

Manage-
ment of
Textile
industry.

4. (1) Notwithstanding anything contained in any other law for the time being in force, on and from the appointed day, the management of all units of the textile industry shall vest in the Central Government.

(2) On and from the appointed day, it shall not be open for any person or association of persons or company or a cooperative society or a trading or a non-trading society to establish or manage any textile unit except under the authority of the Central Government.

Contract
regarding
manage-
ment of
textile
units to
be deemed
to have
terminated
on the
appointed
day.

5. Any contract, whether express or implied, providing for the management of any textile unit, made before the appointed day between the owner of such unit and any person in charge of the management of such unit immediately before the appointed day shall be deemed to have terminated on the appointed day.

6. Every owner of a textile unit shall be given by the Central Government an amount of rupee one in cash, for the vesting in it under section 4 of the management of such textile unit.

Payment of amount.

7. (1) Pending the appointment of a Custodian under section 8 for any textile unit, the person in charge of the management of such unit immediately before the appointed day shall, on and from the appointed day, be in charge of the management of such unit for and on behalf of the Central Government; and the management of such unit shall be carried on by such person subject to the directions, if any, as the Central Government may give to him and no other person, including the owner, shall, so long as such management continues, exercise any powers of management in relation to the textile unit or give any direction with regard to such management.

Management of textile units pending the appointment of Custodian.

(2) Every person in charge of the management of a textile unit shall deliver forthwith to the person specified in this behalf by the Central Government in respect of that textile unit, the following documents, namely:—

(a) the minutes book or any other book in India containing all resolutions, up to the appointed day, of the persons in charge of the management of the textile unit before the appointed day;

(b) the cheque books relating to the textile unit which are at any office of the textile unit;

(c) all registers or other books containing particulars relating to the investment of any monies pertaining to the textile unit including investments on mortgaged properties and all loans granted or advances made.

(3) Without prejudice to the generality of the powers conferred by sub-section (1) and the provisions contained in sub-section (2), any directions issued under sub-section (1) may require the persons in charge of the management of a textile unit under this Act to furnish to the Central Government or to the authorised person such returns, statements and other information relating to the textile unit as may be mentioned in the direction.

8: (1) The Central Government may, as soon as it is convenient administratively so to do, appoint any person as the Custodian for the purpose of taking over the management of one or more textile units and the person so appointed shall carry on the management of such units for and on behalf of the Central Government.

Power of Central Government to appoint Custodians.

(2) (a) The Central Government may also appoint a person as the Custodian-General for exercising supervision and control over all the textile units the management of which is taken over under this Act and on such appointment, every Custodian, appointed under sub-section (1), shall act under the guidance, control and supervision of the Custodian-General.

(b) The Central Government may also appoint one or more persons as Additional Custodian-General or Deputy Custodian-General for assisting the Custodian-General in the exercise of his powers and duties under this Act and the Custodian-General may delegate all or such of his powers, as he may think fit, to the Additional Custodian-General or Deputy Custodian-General.

Penalties.

9. If any person—

(a) fails to deliver to the Custodian any assets, books of account, registers or any other document in his custody relating to the textile unit in respect of the management of which the Custodian has been appointed, or

(b) retains any property of such textile unit or removes or destroys it, or

(c) fails to comply with the provisions contained in sub-section (2) of section 7, or

(d) fails to comply with any directions given under sub-section (1) of section 7,

he shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to ten thousand rupees, or with both.

**Offences
by textile
units.**

10. Where an offence under this Act has been committed by a textile unit, every person who at the time the offence was committed was in charge of, and was responsible to, the textile unit for the conduct of the business of the textile unit, as well as the textile unit, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

**Delegation
of
powers.**

11. (1) The Central Government may, by notified order, direct that all or any of the powers exercised by it under this Act may also be exercised by any person or persons as may be specified in the order.

(2) Whenever any delegation of power is made under sub-section (1), the person to whom such power has been delegated shall act under the direction, control and supervision of the Central Government.

**Power to
make
rules.**

12. (1) The Central Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the powers and functions of the Custodian, Custodian-General, Additional Custodian-General or Deputy Custodian-General;

(b) the manner in which the textile units shall be managed by the custodian;

(c) the salary, allowances and terms and conditions of service of the Custodian, Custodian-General, Additional Custodian-General or Deputy Custodian-General;

(d) the form and manner in which accounts of the textile units shall be maintained;

(e) any other matter in relation to which such rule is required to be, or may be, made.

13. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by notified order, not inconsistent with the provisions of this Act, remove the difficulty:

Power to
remove
difficulties.

Provided that no such order shall be made after the expiry of a period of two years from the appointed day.

STATEMENT OF OBJECTS AND REASONS

The textile industry is in need of intensive care of the Central Government. A number of textile units in the country are closed. Large number of workers have been rendered unemployed. The production of yarn and fabric needs an appropriate boost. The health of the industry has to be restored. Large number of textile units need modernisation. It is necessary to make special efforts for development of the industry in order to utilise its full potential in the matter of home consumption and exports. It is not possible to achieve the objective of restoration of health of the industry and its modernisation through the existing structure of management of the textile industry.

Article 19(6) of the Constitution of India contemplates the carrying on by the State, or by a corporation owned or controlled by the State, of any trade, business, industry or service, whether to the exclusion, complete or partial, of citizens or otherwise. Article 39(b) enjoins upon the State to direct its policy towards securing that the ownership and control of the material resources of the community are so distributed as best to subserve the common good.

Above all, the Preamble to the Constitution expresses the resolution of the people of India to set up a socialist structure of society. The means of production should, therefore, be brought under the control and ownership of the society.

Therefore, the control of the textile industry by the Union Government is expedient and in the public interest as provided for in entry 52 of the List-I, Union List of the Seventh Schedule to the Constitution.

The Bill seeks to achieve these objects in relation to the textile industry pending total nationalisation of the textile industry.

Hence this Bill,

NEW DELHI;
October 25, 1968.

HAROOBHAI MEHTA.

FINANCIAL MEMORANDUM

Clause 4 of the Bill provides for vesting of the management of all Textile Industrial Units in the Central Government. Clause 6 contemplates payment of a token compensation of rupee one per unit for taking over the management of textile industry. Clause 8 provides for the appointment of Custodian, Custodian-General, Additional Custodian-General or Deputy Custodian-General for the management of the textile units. Clause 12 (2) (c) provides for fixing of the salary, allowances and other terms and conditions of service of Custodian-General, etc. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is likely to involve a recurring expenditure of rupees five lakhs per annum.

The expenditure on the token amount payable in taking over the management of the textile units is symbolic and is likely to involve non-recurring expenditure of about rupees twenty-five thousands.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 11 of the Bill provides for delegation of powers by the Central Government. Clause 12 gives power to make rules to the Central Government. Clause 13 gives power to the Government to issue notification for the purposes of removal of difficulties which may arise in giving effect to the provisions of the Bill. The matters in regard to which the powers are to be delegated are matters of details only and as such the delegation of legislative power is of a normal character.

SUBHASH C. KASHYAP,
Secretary-General.

